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May 27, 2016

Mark J. Langer
Clerk of Court
United States Court of Appeals
for the DC Circuit
333 Constitution Ave., N.W.
Washington, D.C. 20001

Schwarz Partners Packaging, LLC v. NLRB, Case Nos. 15-1203, 15-1235

Dear Mr. Langer:

The Intervenor Union hereby responds to the FRAP Rule 28(j) letter of Petitioner Schwartz Partners Packaging. In short, the case which Petitioner cites in that letter – *Hospital of Barstow, Inc. v. NLRB*, ___ F.3d ___, 2016 WL 170366 (D.C. Cir. April 29, 2016), is inapposite.

This is so, for, as this Court explained in *Hospital of Barstow*, slip of at 5, that case “involves a Regional Director’s conduct of an election pursuant to a *consent* election agreement, not, as in *UC Health* and *SSC Mystic*, pursuant to a *stipulated* election agreement In *UC Health* and *SC Mystic*, we deferred to the Board’s interpretation of the statutory quorum provision in the context of a stipulated election to Board review.” (Court’s emphasis). The instant case, as was the case in *UC Health* and *SC Mystic*, involves an election conducted pursuant to a *stipulated* election agreement – not pursuant to a *consent* agreement as was the case in *Hospital of Barstow*. Therefore, on this basis, this Court should defer to the Board’s statutory interpretation that the Regional Director had the authority to act to certify the election in this case even in the absence of a Board quorum at the time.

Sincerely yours,

Daniel M. Kovalik
Associate General Counsel

cc: Kerry P. Hastings (ECF)
Jared D. Cantor (ECF)